

HOUSE BILL 1318

K3, K4

3lr0841

By: **Delegate Hucker**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Secure Choice Retirement Savings Program and Maryland Secure**
3 **Choice Retirement Savings Trust**

4 FOR the purpose of establishing the Maryland Secure Choice Retirement Savings
5 Program for eligible private sector employees; establishing the Maryland Secure
6 Choice Retirement Savings Trust; establishing the Maryland Secure Choice
7 Retirement Savings Investment Board to implement, maintain, and administer
8 the Program and the Trust; providing for the composition, chair, and staffing of
9 the Board; providing for the powers and duties of the Board, including investing
10 certain assets, adopting an investment policy, hiring an investment
11 management entity, disseminating information to employers and employees,
12 submitting an annual audited financial report, establishing certain accounts
13 within the Program, and establishing and maintaining a certain retirement
14 investments clearinghouse; prohibiting the Board from taking certain actions;
15 requiring eligible employers to offer the Program and requiring eligible
16 employees to participate in the Program unless written notice to opt out is
17 provided to the employer; providing for the method of payment of certain
18 expenses incurred by the Board as a result of administering the Program;
19 requiring the Board to adopt certain regulations; authorizing the Comptroller to
20 enforce employer compliance with certain Program requirements; imposing
21 certain penalties for noncompliance with certain Program requirements;
22 requiring the Board to conduct a certain market analysis and report its findings
23 to the Governor and the General Assembly; requiring certain conditions to be
24 met before any plan, trust, administrative arrangement, or investment offering
25 may be implemented; providing for the expiration of terms of certain initial
26 Board members; defining certain terms; and generally relating to the Maryland
27 Secure Choice Retirement Savings Program and Maryland Secure Choice
28 Retirement Savings Trust.

29 BY adding to

30 Article – Labor and Employment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 12–101 through 12–701 to be under the new title “Title 12. Maryland
2 Secure Choice Retirement Savings Program and Maryland Secure Choice
3 Retirement Savings Trust”
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2012 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Labor and Employment**

9 **TITLE 12. MARYLAND SECURE CHOICE RETIREMENT SAVINGS PROGRAM AND**
10 **MARYLAND SECURE CHOICE RETIREMENT SAVINGS TRUST.**

11 **SUBTITLE 1. DEFINITIONS.**

12 **12–101.**

13 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) “BOARD” MEANS THE MARYLAND SECURE CHOICE RETIREMENT
16 SAVINGS INVESTMENT BOARD.

17 (C) (1) “ELIGIBLE EMPLOYEE” MEANS A PERSON WHO IS EMPLOYED
18 BY AN ELIGIBLE EMPLOYER.

19 (2) “ELIGIBLE EMPLOYEE” DOES NOT INCLUDE:

20 (I) ANY EMPLOYEE COVERED UNDER THE FEDERAL
21 RAILWAY LABOR ACT (45 U.S.C. SEC. 151), OR ANY EMPLOYEE ENGAGED IN
22 INTERSTATE COMMERCE SO AS NOT TO BE SUBJECT TO THE LEGISLATIVE
23 POWERS OF THE STATE; AND

24 (II) ANY EMPLOYEE COVERED BY A VALID COLLECTIVE
25 BARGAINING AGREEMENT THAT EXPRESSLY PROVIDES FOR A MULTI–EMPLOYER
26 TAFT–HARTLEY PENSION PLAN.

27 (D) (1) “ELIGIBLE EMPLOYER” MEANS A PERSON ENGAGED IN A
28 BUSINESS, AN INDUSTRY, A PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE
29 IN THE STATE, WHETHER FOR PROFIT OR NOT FOR PROFIT, THAT:

30 (I) HAS FIVE OR MORE EMPLOYEES; AND

1 **(II) SATISFIES THE REQUIREMENTS TO ESTABLISH OR**
2 **PARTICIPATE IN A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT.**

3 **(2) “ELIGIBLE EMPLOYER” DOES NOT INCLUDE:**

4 **(I) THE FEDERAL GOVERNMENT;**

5 **(II) THE STATE AND ANY UNIT OF THE STATE;**

6 **(III) A COUNTY AND ANY UNIT OF THE COUNTY; OR**

7 **(IV) A MUNICIPAL CORPORATION AND ANY UNIT OF THE**
8 **MUNICIPAL CORPORATION.**

9 **(E) “IRA” MEANS AN INDIVIDUAL RETIREMENT ACCOUNT OR**
10 **INDIVIDUAL RETIREMENT ANNUITY UNDER § 408(A) OR (B) OF THE INTERNAL**
11 **REVENUE CODE.**

12 **(F) “MARYLAND SECURE CHOICE RETIREMENT SAVINGS PROGRAM”**
13 **MEANS A RETIREMENT SAVINGS PROGRAM OFFERED BY THE MARYLAND**
14 **SECURE CHOICE RETIREMENT SAVINGS TRUST ESTABLISHED UNDER THIS**
15 **TITLE.**

16 **(G) “PARTICIPATING EMPLOYER” MEANS AN ELIGIBLE EMPLOYER THAT**
17 **PROVIDES A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT UNDER**
18 **THIS TITLE FOR ELIGIBLE EMPLOYEES.**

19 **(H) “PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT” MEANS**
20 **AN ARRANGEMENT BY WHICH AN EMPLOYER ALLOWS EMPLOYEES TO REMIT**
21 **PAYROLL DEDUCTION CONTRIBUTIONS TO A RETIREMENT SAVINGS PROGRAM.**

22 **(I) “PROGRAM” MEANS THE MARYLAND SECURE CHOICE**
23 **RETIREMENT SAVINGS PROGRAM ESTABLISHED UNDER THIS TITLE.**

24 **(J) “STATED INTEREST RATE” MEANS THE RATE OF INTEREST**
25 **ALLOCATED TO PROGRAM ACCOUNTS AS DETERMINED BY THE BOARD IN**
26 **ACCORDANCE WITH § 12-501(C) OF THIS TITLE.**

27 **(K) “TRUST” MEANS THE MARYLAND SECURE CHOICE RETIREMENT**
28 **SAVINGS TRUST ESTABLISHED UNDER THIS TITLE.**

1 **(L) (1) “VENDOR” MEANS A REGISTERED INVESTMENT COMPANY OR**
2 **AN AUTHORIZED LIFE INSURANCE COMPANY QUALIFIED TO DO BUSINESS IN THE**
3 **STATE THAT PROVIDES RETIREMENT INVESTMENT PRODUCTS.**

4 **(2) “VENDOR” INCLUDES:**

5 **(I) AN INSURANCE COMPANY QUALIFIED TO DO BUSINESS**
6 **IN THE STATE; AND**

7 **(II) A COMPANY THAT IS REGISTERED TO DO BUSINESS IN**
8 **THE STATE THAT PROVIDES PAYROLL SERVICES OR RECORDKEEPING SERVICES**
9 **AND OFFERS RETIREMENT PLANS OR PAYROLL DEPOSIT IRA ARRANGEMENTS**
10 **USING PRODUCTS OF REGULATED INVESTMENT COMPANIES.**

11 **(3) “VENDOR” DOES NOT INCLUDE INDIVIDUAL REGISTERED**
12 **REPRESENTATIVES, BROKERS, FINANCIAL PLANNERS, OR AGENTS.**

13 **SUBTITLE 2. ESTABLISHMENT; POWERS AND DUTIES OF BOARD.**

14 **12-201.**

15 **(A) THERE IS A MARYLAND SECURE CHOICE RETIREMENT SAVINGS**
16 **INVESTMENT BOARD.**

17 **(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

18 **(1) THE SECRETARY OF BUDGET AND MANAGEMENT;**

19 **(2) THE STATE COMPTROLLER;**

20 **(3) THE STATE TREASURER; AND**

21 **(4) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:**

22 **(I) AN INDIVIDUAL WITH RETIREMENT SAVINGS AND**
23 **INVESTMENT EXPERTISE;**

24 **(II) A REPRESENTATIVE OF SMALL BUSINESSES;**

25 **(III) A REPRESENTATIVE OF EMPLOYEES;**

26 **(IV) A REPRESENTATIVE OF RETIREES; AND**

1 **(V) A MEMBER OF THE PUBLIC.**

2 **(C) (1) THE TERM OF A MEMBER IS 4 YEARS.**

3 **(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**
4 **THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2013.**

5 **(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
6 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

7 **(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
8 **SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
9 **APPOINTED AND QUALIFIES.**

10 **(D) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE**
11 **MEMBERS OF THE BOARD.**

12 **(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR**
13 **MISCONDUCT.**

14 **12-202.**

15 **(A) THE BOARD SHALL MEET AT THE TIMES AND PLACES THE BOARD**
16 **DETERMINES.**

17 **(B) (1) THE BOARD MAY EMPLOY A STAFF AND MAY HIRE**
18 **CONSULTANTS, ADMINISTRATORS, AND OTHER PROFESSIONALS AS NECESSARY**
19 **TO HELP IMPLEMENT, MAINTAIN, AND ADMINISTER THE PROGRAM AND THE**
20 **TRUST.**

21 **(2) ALL EXPENSES, INCLUDING EMPLOYEE COSTS, INCURRED TO**
22 **IMPLEMENT, MAINTAIN, AND ADMINISTER THE PROGRAM AND THE TRUST**
23 **SHALL BE PAID FROM MONEY COLLECTED BY OR FOR THE PROGRAM OR THE**
24 **TRUST.**

25 **12-203.**

26 **(A) A BOARD MEMBER, PROGRAM ADMINISTRATOR, OR OTHER STAFF**
27 **OF THE BOARD MAY NOT:**

28 **(1) DIRECTLY OR INDIRECTLY HAVE ANY INTEREST IN ANY**
29 **INVESTMENT MADE FOR THE PROGRAM, OR IN THE GAINS OR PROFITS**
30 **ACCRUING FROM ANY INVESTMENT MADE FOR THE PROGRAM;**

1 **(2) BORROW ANY FUNDS OR DEPOSITS OF THE TRUST, OR USE**
2 **THOSE FUNDS OR DEPOSITS IN ANY MANNER, FOR PERSONAL USE OR AS AN**
3 **AGENT OR A PARTNER OF OTHERS; OR**

4 **(3) BECOME AN ENDORSER, A SURETY, OR AN OBLIGOR ON**
5 **INVESTMENTS BY THE BOARD.**

6 **(B) THE BOARD, THE PROGRAM ADMINISTRATOR, AND STAFF SHALL**
7 **DISCHARGE THE DUTIES WITH RESPECT TO THE TRUST SOLELY IN THE**
8 **INTEREST OF THE PROGRAM PARTICIPANTS AS FOLLOWS:**

9 **(1) FOR THE EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO**
10 **PROGRAM PARTICIPANTS AND DEFRAYING REASONABLE EXPENSES OF**
11 **ADMINISTERING THE PROGRAM; AND**

12 **(2) BY INVESTING WITH THE CARE, SKILL, PRUDENCE, AND**
13 **DILIGENCE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT A PRUDENT**
14 **PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH THOSE MATTERS**
15 **WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER AND**
16 **WITH LIKE AIMS.**

17 **(C) (1) THE BOARD SHALL ANNUALLY PREPARE AND ADOPT A**
18 **WRITTEN STATEMENT OF INVESTMENT POLICY THAT INCLUDES A RISK**
19 **MANAGEMENT AND OVERSIGHT PROGRAM.**

20 **(2) THE BOARD SHALL CONSIDER THE STATEMENT OF**
21 **INVESTMENT POLICY AND ANY CHANGES IN THE INVESTMENT POLICY AT A**
22 **PUBLIC HEARING.**

23 **(3) THE INVESTMENT POLICY SHALL ADHERE TO THE FOLLOWING**
24 **GUIDING PRINCIPLES:**

25 **(I) THE PRIMARY OBJECTIVE OF THE INVESTMENT POLICY**
26 **IS PRUDENT MANAGEMENT OF ASSETS TO ACHIEVE A REASONABLE RATE OF**
27 **RETURN WHILE MINIMIZING INVESTMENT RISKS; AND**

28 **(II) THE INVESTMENT POLICY SHALL MITIGATE RISK BY**
29 **MAINTAINING A BALANCED INVESTMENT PORTFOLIO THAT PROVIDES**
30 **ASSURANCE THAT NO SINGLE INVESTMENT OR CLASS OF INVESTMENTS WILL**
31 **HAVE A DISPROPORTIONATE IMPACT ON THE TOTAL PORTFOLIO.**

1 **(4) THE INVESTMENT POLICY MAY AUTHORIZE ONLY THE**
2 **FOLLOWING TYPES OF INVESTMENTS:**

3 **(I) DOMESTIC EQUITIES AND INTERNATIONAL EQUITIES;**

4 **(II) MEDIUM-TERM AND LONG-TERM DEBT OBLIGATIONS OF**
5 **DOMESTIC CORPORATIONS;**

6 **(III) UNITED STATES GOVERNMENT AND**
7 **GOVERNMENT-SPONSORED ENTITY DEBT OBLIGATIONS;**

8 **(IV) REAL ESTATE COMMINGLED FUNDS THAT INVEST IN**
9 **PUBLICLY TRADED REAL ESTATE SECURITIES;**

10 **(V) MONEY MARKET INSTRUMENTS, CASH, AND MONEY**
11 **MARKET MUTUAL FUNDS THAT ARE REGISTERED IN THE UNITED STATES AND**
12 **DENOMINATED IN UNITED STATES DOLLARS;**

13 **(VI) INVESTMENTS IN MUTUAL FUNDS, BUT LIMITED TO**
14 **EXISTING, RATED MUTUAL FUNDS, THAT ARE REGISTERED IN THE UNITED**
15 **STATES AND DENOMINATED IN UNITED STATES DOLLARS;**

16 **(VII) INSURANCE AGREEMENTS; AND**

17 **(VIII) FDIC-INSURED BANK PRODUCTS.**

18 **(5) EQUITIES MAY NOT EXCEED 60% OF THE OVERALL ASSET**
19 **ALLOCATION OF THE FUND.**

20 **(6) THE INVESTMENT POLICY MAY NOT AUTHORIZE:**

21 **(I) BORROWING FOR INVESTMENT PURPOSES OR**
22 **LEVERAGE;**

23 **(II) VARIABLE RATE DEMAND NOTES, FLOATERS, INVERSE**
24 **FLOATERS, LEVERAGED FLOATERS, EQUITY-LINKED SECURITIES, AND SIMILAR**
25 **INSTRUMENTS;**

26 **(III) INVESTMENTS IN DERIVATIVE INSTRUMENTS,**
27 **INCLUDING OPTIONS, FUTURES, AND SWAPS; AND**

1 **(IV) CONTRACTING TO SELL SECURITIES NOT YET ACQUIRED**
2 **IN ORDER TO PURCHASE OTHER SECURITIES FOR PURPOSES OF SPECULATING**
3 **ON DEVELOPMENTS OR TRENDS IN THE MARKET.**

4 **(7) (I) THE RISK MANAGEMENT AND OVERSIGHT PROGRAM**
5 **SHALL BE DESIGNED TO ENSURE THAT AN EFFECTIVE RISK MANAGEMENT**
6 **SYSTEM IS IN PLACE TO MONITOR THE RISK LEVELS OF THE PROGRAM**
7 **INVESTMENT PORTFOLIO AND ENSURE THAT THE RISKS TAKEN ARE PRUDENT**
8 **AND PROPERLY MANAGED.**

9 **(II) THE PROGRAM SHALL BE MANAGED TO PROVIDE AN**
10 **INTEGRATED PROCESS FOR OVERALL RISK MANAGEMENT ON BOTH A**
11 **CONSOLIDATED AND DISAGGREGATED BASIS, AND TO MONITOR INVESTMENT**
12 **RETURNS AS WELL AS RISK TO DETERMINE IF THE RISKS TAKEN ARE**
13 **ADEQUATELY COMPENSATED COMPARED TO APPLICABLE PERFORMANCE**
14 **BENCHMARKS AND STANDARDS.**

15 **(D) (1) THE BOARD SHALL APPROVE AN INVESTMENT MANAGEMENT**
16 **ENTITY.**

17 **(2) THE COSTS OF THE INVESTMENT MANAGEMENT ENTITY**
18 **SHALL BE PAID OUT OF FUNDS HELD IN THE TRUST AND MAY NOT BE**
19 **ATTRIBUTED TO THE ADMINISTRATIVE COSTS OF THE BOARD IN OPERATING**
20 **THE TRUST.**

21 **(3) WITHIN 30 DAYS AFTER THE END OF EACH MONTH, THE**
22 **BOARD SHALL PLACE ON FILE FOR PUBLIC INSPECTION DURING BUSINESS**
23 **HOURS A REPORT WITH RESPECT TO INVESTMENTS MADE IN ACCORDANCE WITH**
24 **THIS SECTION AND A REPORT OF DEPOSITS IN FINANCIAL INSTITUTIONS.**

25 **(4) THE INVESTMENT MANAGER SHALL REPORT THE FOLLOWING**
26 **INFORMATION TO THE BOARD WITHIN 20 DAYS AFTER THE END OF THE EACH**
27 **MONTH:**

28 **(I) THE TYPE OF INVESTMENT, NAME OF THE ISSUER, DATE**
29 **OF MATURITY, AND THE PAR AND DOLLAR AMOUNT INVESTED IN EACH**
30 **SECURITY, INVESTMENT, AND MONEY WITHIN THE PROGRAM FUND;**

31 **(II) THE WEIGHTED AVERAGE MATURITY OF THE**
32 **INVESTMENTS WITHIN THE PROGRAM FUND;**

33 **(III) ANY AMOUNTS IN THE PROGRAM FUND THAT ARE**
34 **UNDER THE MANAGEMENT OF PRIVATE MONEY MANAGERS;**

1 (IV) ANY AMOUNTS IN THE PROGRAM FUND THAT ARE
2 UNDER THE MANAGEMENT OF THE BOARD OF TRUSTEES FOR THE STATE
3 RETIREMENT AND PENSION SYSTEM;

4 (V) THE MARKET VALUE AS OF THE DATE OF THE REPORT
5 AND THE SOURCE OF THIS VALUATION FOR EACH SECURITY WITHIN THE
6 PROGRAM FUND;

7 (VI) ANY FEES AND EXPENSES OF THE INVESTMENT
8 MANAGER; AND

9 (VII) A DESCRIPTION OF COMPLIANCE WITH THE STATEMENT
10 OF INVESTMENT POLICY.

11 **12-204.**

12 (A) THE BOARD, IN THE CAPACITY OF TRUSTEE, MAY:

13 (1) MAKE AND ENTER INTO CONTRACTS NECESSARY FOR THE
14 ADMINISTRATION OF THE TRUST;

15 (2) ADOPT A SEAL;

16 (3) CAUSE MONEY IN THE PROGRAM FUND TO BE HELD AND
17 INVESTED AND REINVESTED;

18 (4) ACCEPT ANY GRANTS, GIFTS, LEGISLATIVE APPROPRIATION,
19 AND OTHER MONEY FROM THE STATE, ANY UNIT OF FEDERAL, STATE, OR LOCAL
20 GOVERNMENT OR ANY OTHER PERSON, FIRM, PARTNERSHIP, OR CORPORATION
21 FOR DEPOSIT TO AN ADMINISTRATIVE FUND OR THE PROGRAM FUND;

22 (5) APPOINT A PROGRAM ADMINISTRATOR AND DETERMINE THE
23 DUTIES OF THE PROGRAM ADMINISTRATOR;

24 (6) EMPLOY STAFF AS NECESSARY AND SET THE COMPENSATION
25 OF THE STAFF;

26 (7) MAKE PROVISIONS FOR THE PAYMENT OF COSTS OF
27 ADMINISTRATION AND OPERATION OF THE TRUST;

28 (8) RETAIN AND CONTRACT WITH THE BOARD OF TRUSTEES FOR
29 THE STATE RETIREMENT AND PENSION SYSTEM, PRIVATE FINANCIAL

1 INSTITUTIONS, OTHER FINANCIAL AND SERVICE PROVIDERS, CONSULTANTS,
2 ACTUARIES, COUNSEL, AUDITORS, THIRD-PARTY ADMINISTRATORS, AND OTHER
3 PROFESSIONALS AS NECESSARY;

4 (9) PROCURE INSURANCE AGAINST ANY LOSS IN CONNECTION
5 WITH THE PROPERTY, ASSETS, OR ACTIVITIES OF THE TRUST, AND SECURE
6 PRIVATE UNDERWRITING AND REINSURANCE TO MANAGE RISK AND INSURE THE
7 RETIREMENT SAVINGS RATE OF RETURN;

8 (10) PROCURE INSURANCE INDEMNIFYING EACH MEMBER OF THE
9 BOARD FROM PERSONAL LOSS OR LIABILITY RESULTING FROM A MEMBER'S
10 ACTION OR INACTION AS A MEMBER OF THE BOARD;

11 (11) SET MINIMUM AND MAXIMUM INVESTMENT LEVELS IN
12 ACCORDANCE WITH CONTRIBUTION LIMITS SET FOR IRAS BY THE INTERNAL
13 REVENUE CODE;

14 (12) COLLABORATE AND COOPERATE WITH THE BOARD OF
15 TRUSTEES FOR THE STATE RETIREMENT AND PENSION SYSTEM, PRIVATE
16 FINANCIAL INSTITUTIONS, SERVICE PROVIDERS, AND BUSINESS, FINANCIAL,
17 TRADE, MEMBERSHIP, AND OTHER ORGANIZATIONS AS NECESSARY FOR THE
18 EFFECTIVE AND EFFICIENT DESIGN, IMPLEMENTATION, AND ADMINISTRATION
19 OF THE PROGRAM AND TO MAXIMIZE OUTREACH TO ELIGIBLE EMPLOYERS AND
20 ELIGIBLE EMPLOYEES;

21 (13) CAUSE EXPENSES INCURRED TO INITIATE, IMPLEMENT,
22 MAINTAIN, AND ADMINISTER THE PROGRAM TO BE PAID FROM CONTRIBUTIONS
23 TO, OR INVESTMENT RETURNS OR ASSETS OF, THE PROGRAM AND THE TRUST
24 OR ARRANGEMENTS ESTABLISHED UNDER THE PROGRAM AND THE TRUST, TO
25 THE EXTENT PERMITTED UNDER STATE AND FEDERAL LAW;

26 (14) FACILITATE COMPLIANCE WITH THE PROGRAM OR
27 ARRANGEMENTS ESTABLISHED UNDER THE PROGRAM WITH ALL APPLICABLE
28 REQUIREMENTS FOR THE PROGRAM UNDER THE INTERNAL REVENUE CODE OF
29 1986, INCLUDING:

30 (I) TAX QUALIFICATION REQUIREMENTS;

31 (II) ANY OTHER APPLICABLE LAW AND ACCOUNTING
32 REQUIREMENTS; AND

1 **(III) PROVIDING OR ARRANGING FOR ASSISTANCE TO**
2 **PROGRAM SPONSORS AND INDIVIDUALS IN COMPLYING WITH APPLICABLE LAW**
3 **AND TAX QUALIFICATION REQUIREMENTS IN A COST-EFFECTIVE MANNER;**

4 **(15) CARRY OUT THE DUTIES AND OBLIGATIONS OF THE TRUST IN**
5 **ACCORDANCE WITH THIS TITLE; AND**

6 **(16) EXERCISE ANY OTHER POWERS AS MAY BE REASONABLY**
7 **NECESSARY FOR THE EFFECTUATION OF THE PURPOSES, OBJECTIVES, AND**
8 **PROVISIONS OF THIS TITLE PERTAINING TO THE TRUST.**

9 **(B) THE BOARD SHALL ADOPT REGULATIONS NECESSARY TO**
10 **IMPLEMENT THIS TITLE CONSISTENT WITH THE INTERNAL REVENUE CODE AND**
11 **REGULATIONS ISSUED IN ACCORDANCE WITH THE INTERNAL REVENUE CODE**
12 **TO ENSURE THAT THE PROGRAM MEETS ALL CRITERIA FOR FEDERAL**
13 **TAX-DEFERRAL OR TAX-EXEMPT BENEFITS OR BOTH.**

14 **12-205.**

15 **IN ADDITION TO THE AUTHORITY GRANTED TO THE BOARD UNDER §**
16 **12-204 OF THIS SUBTITLE, THE BOARD MAY:**

17 **(1) CAUSE THE PROGRAM OR ARRANGEMENTS ESTABLISHED**
18 **UNDER THE PROGRAM TO BE DESIGNED, ESTABLISHED, AND OPERATED:**

19 **(I) IN ACCORDANCE WITH BEST PRACTICES FOR**
20 **RETIREMENT SAVINGS VEHICLES;**

21 **(II) IN A MANNER THAT MAXIMIZES PARTICIPATION,**
22 **SAVINGS, SOUND INVESTMENT PRACTICES, AND APPROPRIATE SELECTION OF**
23 **DEFAULT INVESTMENT; AND**

24 **(III) WITH SIMPLICITY, EASE OF ADMINISTRATION FOR**
25 **PARTICIPATING EMPLOYERS, AND PORTABILITY OF BENEFITS;**

26 **(2) ARRANGE FOR COLLECTIVE, COMMON, AND POOLED**
27 **INVESTMENT OF ASSETS OF THE PROGRAM OR ARRANGEMENTS, INCLUDING**
28 **INVESTMENTS IN CONJUNCTION WITH OTHER FUNDS WITH WHICH THOSE**
29 **ASSETS ARE AUTHORIZED TO BE COLLECTIVELY INVESTED, WITH A VIEW TO**
30 **SAVING COSTS THROUGH EFFICIENCIES AND ECONOMIES OF SCALE;**

31 **(3) EXPLORE AND ESTABLISH INVESTMENT OPTIONS THAT OFFER**
32 **EMPLOYEES RETURNS ON CONTRIBUTIONS AND THE CONVERSION OF**

1 INDIVIDUAL RETIREMENT SAVINGS ACCOUNT BALANCES TO SECURE
2 RETIREMENT INCOME WITHOUT INCURRING DEBT OR LIABILITIES TO THE
3 STATE;

4 (4) DISSEMINATE EDUCATIONAL INFORMATION CONCERNING
5 SAVING AND PLANNING FOR RETIREMENT;

6 (5) DISSEMINATE INFORMATION CONCERNING THE TAX CREDITS
7 AVAILABLE TO SMALL BUSINESS OWNERS FOR ESTABLISHING NEW RETIREMENT
8 PLANS AND THE FEDERAL RETIREMENT SAVINGS CONTRIBUTION CREDIT
9 (SAVER'S CREDIT) AVAILABLE TO LOWER- AND MODERATE-INCOME
10 HOUSEHOLDS FOR QUALIFIED SAVINGS CONTRIBUTIONS;

11 (6) SUBMIT PROGRESS AND STATUS REPORTS TO PARTICIPATING
12 EMPLOYERS AND ELIGIBLE EMPLOYEES;

13 (7) IF NECESSARY, DETERMINE THE ELIGIBILITY OF AN
14 EMPLOYER, EMPLOYEE, OR ANY OTHER INDIVIDUAL TO PARTICIPATE IN THE
15 PROGRAM;

16 (8) EVALUATE AND ESTABLISH THE PROCESS FOR AN ELIGIBLE
17 EMPLOYEE OF A PARTICIPATING EMPLOYER TO CONTRIBUTE A PORTION OF THE
18 EMPLOYEE'S SALARY OR WAGES TO THE PROGRAM FOR AUTOMATIC DEPOSIT OF
19 THE CONTRIBUTIONS;

20 (9) EVALUATE AND ESTABLISH THE PROCESS FOR A
21 PARTICIPATING EMPLOYER TO PROVIDE A PAYROLL DEPOSIT RETIREMENT
22 SAVINGS ARRANGEMENT FOR ELIGIBLE EMPLOYEES AND TO FORWARD THE
23 EMPLOYEE CONTRIBUTION AND RELATED INFORMATION TO THE PROGRAM OR
24 ITS AGENTS, WHICH MAY INCLUDE FINANCIAL SERVICES COMPANIES AND
25 THIRD-PARTY ADMINISTRATORS WITH THE CAPABILITY TO RECEIVE AND
26 PROCESS EMPLOYEE INFORMATION AND CONTRIBUTIONS FOR PAYROLL
27 DEPOSIT RETIREMENT SAVINGS ARRANGEMENTS OR OTHER ARRANGEMENTS
28 AUTHORIZED BY THIS TITLE;

29 (10) EVALUATE AND ESTABLISH THE PROCESS FOR A
30 PARTICIPATING EMPLOYER TO USE THE PROGRAM TO REMIT EMPLOYEES'
31 CONTRIBUTIONS TO THEIR INDIVIDUAL RETIREMENT ACCOUNTS ON BEHALF OF
32 THE EMPLOYEES;

33 (11) EVALUATE AND ESTABLISH THE PROCESS FOR
34 PARTICIPATING EMPLOYERS TO MAKE EMPLOYER CONTRIBUTIONS TO THEIR
35 EMPLOYEES' INDIVIDUAL RETIREMENT ACCOUNTS IF:

1 **(I) THE CONTRIBUTIONS WOULD BE ALLOWED UNDER THE**
2 **INTERNAL REVENUE CODE; AND**

3 **(II) THE CONTRIBUTIONS WOULD NOT CAUSE THE**
4 **PROGRAM TO BE TREATED AS AN EMPLOYEE BENEFIT PLAN UNDER THE**
5 **FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT;**

6 **(12) DESIGN AND ESTABLISH THE PROCESS FOR THE ENROLLMENT**
7 **OF PROGRAM PARTICIPANTS; AND**

8 **(13) EVALUATE AND ESTABLISH THE PROCESS BY WHICH AN**
9 **INDIVIDUAL OR AN EMPLOYEE OF A NONPARTICIPATING EMPLOYER MAY**
10 **ENROLL IN AND MAKE CONTRIBUTIONS TO THE PROGRAM.**

11 **12-206.**

12 **(A) THE BOARD SHALL ENSURE THAT A MECHANISM IS IN PLACE AT ALL**
13 **TIMES TO MINIMIZE THE RISK TO PARTICIPANTS IF TARGET RATES OF RETURN**
14 **ARE NOT ACHIEVED.**

15 **(B) THE FUNDING MECHANISM SHALL PROTECT, INDEMNIFY, AND HOLD**
16 **THE STATE HARMLESS AT ALL TIMES AGAINST ANY AND ALL LIABILITY IN**
17 **CONNECTION WITH FUNDING RETIREMENT BENEFITS UNDER THIS TITLE.**

18 **(C) THE COSTS OF THE FUNDING MECHANISM SHALL BE PAID OUT OF**
19 **THE FUNDS HELD IN THE TRUST AND MAY NOT BE ATTRIBUTED TO THE**
20 **ADMINISTRATIVE COSTS OF THE BOARD IN OPERATING THE TRUST.**

21 **12-207.**

22 **(A) (1) BEFORE OPENING THE PROGRAM FOR ENROLLMENT, THE**
23 **BOARD SHALL DESIGN AND DISSEMINATE TO EMPLOYERS THROUGH THE**
24 **DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AN EMPLOYEE**
25 **INFORMATION PACKET.**

26 **(2) THE PACKET SHALL INCLUDE BACKGROUND INFORMATION**
27 **ON THE PROGRAM AND APPROPRIATE DISCLOSURES FOR EMPLOYEES.**

28 **(B) THE DISCLOSURE FORM SHALL INCLUDE:**

29 **(1) THE BENEFITS AND RISKS ASSOCIATED WITH MAKING**
30 **CONTRIBUTIONS TO THE PROGRAM;**

1 **(2) THE MECHANICS OF HOW TO MAKE CONTRIBUTIONS TO THE**
2 **PROGRAM;**

3 **(3) HOW TO OPT OUT OF THE PROGRAM;**

4 **(4) THE PROCESS FOR WITHDRAWAL OF RETIREMENT SAVINGS;**
5 **AND**

6 **(5) HOW TO OBTAIN ADDITIONAL INFORMATION ON THE**
7 **PROGRAM.**

8 **(C) THE DISCLOSURE FORM SHALL CLEARLY STATE THE FOLLOWING:**

9 **(1) EMPLOYEES SEEKING FINANCIAL ADVICE SHOULD CONTACT**
10 **FINANCIAL ADVISORS BECAUSE EMPLOYERS ARE NOT IN A POSITION TO**
11 **PROVIDE FINANCIAL ADVICE;**

12 **(2) IN ACCORDANCE WITH § 12-601 OF THIS TITLE, EMPLOYERS**
13 **ARE NOT LIABLE FOR DECISIONS MADE BY EMPLOYEES;**

14 **(3) THE PROGRAM IS NOT AN EMPLOYER-SPONSORED**
15 **RETIREMENT PLAN; AND**

16 **(4) IN ACCORDANCE WITH § 12-602 OF THIS TITLE, THE**
17 **PROGRAM FUND IS PRIVATELY INSURED AND IS NOT GUARANTEED BY THE**
18 **STATE OF MARYLAND.**

19 **(D) THE DISCLOSURE FORM SHALL INCLUDE A SIGNATURE LINE FOR**
20 **THE EMPLOYEE TO SIGN AND DATE ACKNOWLEDGING THAT THE EMPLOYEE HAS**
21 **READ ALL OF THE DISCLOSURES AND UNDERSTANDS THE DISCLOSURES.**

22 **(E) (1) THE EMPLOYEE INFORMATION PACKET ALSO SHALL INCLUDE**
23 **AN OPT-OUT FORM FOR AN ELIGIBLE EMPLOYEE TO NOTE THE EMPLOYEE'S**
24 **DECISION TO OPT OUT OF PARTICIPATION IN THE PROGRAM.**

25 **(2) THE OPT-OUT NOTATION SHALL BE SIMPLE AND CONCISE**
26 **AND DRAFTED IN A MANNER THAT THE BOARD DEEMS NECESSARY TO**
27 **APPROPRIATELY EVIDENCE THE EMPLOYEE'S UNDERSTANDING THAT THE**
28 **EMPLOYEE IS CHOOSING NOT TO DEDUCT AUTOMATICALLY EARNINGS TO SAVE**
29 **FOR RETIREMENT.**

1 **(F) (1) THE EMPLOYEE INFORMATION PACKET SHALL BE MADE**
2 **AVAILABLE TO EMPLOYERS THROUGH THE DEPARTMENT OF BUSINESS AND**
3 **ECONOMIC DEVELOPMENT AND SUPPLIED TO EMPLOYEES AT THE TIME OF**
4 **HIRING.**

5 **(2) ALL NEW EMPLOYEES SHALL REVIEW AND ACKNOWLEDGE**
6 **HAVING READ THE EMPLOYEE INFORMATION PACKET BY SIGNING THE**
7 **SIGNATURE LINE ACCOMPANIED BY THE DATE OF THE SIGNATURE.**

8 **(G) THE EMPLOYEE INFORMATION PACKET SHALL BE SUPPLIED TO**
9 **EXISTING EMPLOYEES WHEN THE PROGRAM IS INITIALLY LAUNCHED FOR THAT**
10 **PARTICIPATING EMPLOYER IN ACCORDANCE WITH § 12-502 OF THIS TITLE, AND**
11 **EMPLOYEES SHALL REVIEW AND SIGN THE DISCLOSURE FORM AT THAT TIME.**

12 **12-208.**

13 **(A) (1) ON OR BEFORE AUGUST 1 EACH YEAR, THE BOARD SHALL**
14 **SUBMIT AN ANNUAL AUDITED FINANCIAL REPORT, PREPARED IN ACCORDANCE**
15 **WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, ON THE OPERATIONS**
16 **OF THE TRUST TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE**
17 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

18 **(2) THE ANNUAL AUDIT SHALL BE MADE BY AN INDEPENDENT**
19 **CERTIFIED PUBLIC ACCOUNTANT AND SHALL INCLUDE DIRECT AND INDIRECT**
20 **COSTS ATTRIBUTABLE TO THE USE OF OUTSIDE CONSULTANTS, INDEPENDENT**
21 **CONTRACTORS, AND ANY OTHER PERSONS WHO ARE NOT STATE EMPLOYEES.**

22 **(B) THE ANNUAL AUDIT SHALL BE SUPPLEMENTED BY THE FOLLOWING**
23 **INFORMATION PREPARED BY THE BOARD:**

24 **(1) ANY STUDIES OR EVALUATIONS PREPARED IN THE**
25 **PRECEDING YEAR;**

26 **(2) A SUMMARY OF THE BENEFITS PROVIDED BY THE TRUST**
27 **INCLUDING THE NUMBER OF PARTICIPANTS IN THE TRUST; AND**

28 **(3) ANY OTHER INFORMATION THAT IS RELEVANT IN ORDER TO**
29 **MAKE A FULL, FAIR, AND EFFECTIVE DISCLOSURE OF THE OPERATIONS OF THE**
30 **TRUST.**

31 **SUBTITLE 3. MARYLAND SECURE CHOICE RETIREMENT SAVINGS TRUST.**

32 **12-301.**

1 **(A) THERE IS A RETIREMENT SAVINGS TRUST KNOWN AS THE**
2 **MARYLAND SECURE CHOICE RETIREMENT SAVINGS TRUST.**

3 **(B) THE MARYLAND SECURE CHOICE RETIREMENT SAVINGS TRUST**
4 **SHALL BE ADMINISTERED BY THE BOARD FOR THE PURPOSE OF PROMOTING**
5 **GREATER RETIREMENT SAVINGS FOR MARYLAND PRIVATE SECTOR EMPLOYEES**
6 **IN A CONVENIENT, VOLUNTARY, LOW-COST, AND PORTABLE MANNER.**

7 **(C) IF SUFFICIENT FUNDS ARE MADE AVAILABLE FOR THIS TITLE TO BE**
8 **OPERATIVE, THE MARYLAND SECURE CHOICE RETIREMENT SAVINGS TRUST,**
9 **AS A SELF-SUSTAINING TRUST, SHALL PAY ALL COSTS OF ADMINISTRATION**
10 **ONLY OUT OF MONEY ON DEPOSIT IN THE TRUST.**

11 **(D) THE BOARD SHALL SEGREGATE MONEY RECEIVED BY THE TRUST**
12 **INTO THE PROGRAM FUND AND THE ADMINISTRATIVE FUND.**

13 **(E) MONEY IN THE PROGRAM FUND MAY BE INVESTED OR REINVESTED**
14 **BY THE TREASURER OR MAY BE INVESTED IN WHOLE OR IN PART UNDER**
15 **CONTRACT WITH THE BOARD OF TRUSTEES FOR THE STATE RETIREMENT AND**
16 **PENSION SYSTEM OR PRIVATE MONEY MANAGERS, OR BOTH, AS DETERMINED**
17 **BY THE BOARD.**

18 **(F) (1) TRANSFERS MAY BE MADE FROM THE PROGRAM FUND TO THE**
19 **ADMINISTRATIVE FUND FOR THE PURPOSE OF PAYING OPERATING COSTS**
20 **ASSOCIATED WITH ADMINISTERING THE TRUST AND AS REQUIRED BY THIS**
21 **TITLE.**

22 **(2) (I) THE GOAL FOR FEE EXPENDITURES PAID OUT OF THE**
23 **ADMINISTRATIVE FUND IS TO AIM FOR LOW FEES SIMILAR TO PUBLIC SECTOR**
24 **RETIREMENT PLANS.**

25 **(II) ALL COSTS FOR ADMINISTERING THE TRUST SHALL BE**
26 **PAID OUT OF THE ADMINISTRATIVE FUND.**

27 **(III) OPERATING COSTS ASSOCIATED WITH ADMINISTERING**
28 **THE TRUST DO NOT INCLUDE THE PROCUREMENT OF PRIVATE UNDERWRITING**
29 **TO MANAGE RISK AND INSURE THE RETIREMENT SAVINGS RATE OF RETURN.**

30 **(G) ANY CONTRIBUTIONS PAID BY EMPLOYEES AND EMPLOYERS INTO**
31 **THE TRUST MAY BE USED ONLY TO:**

32 **(1) PAY BENEFITS TO THE PARTICIPANTS OF THE PROGRAM;**

1 **(2) PAY THE COST FOR ADMINISTERING THE PROGRAM; AND**

2 **(3) MAKE INVESTMENTS FOR THE BENEFIT OF THE PROGRAM.**

3 **12-302.**

4 **(A) (1) THE BOARD MAY ESTABLISH A SEGREGATED ACCOUNT**
5 **WITHIN THE PROGRAM FUND TO BE KNOWN AS THE GAIN AND LOSS RESERVE**
6 **ACCOUNT.**

7 **(2) (I) THE BOARD SHALL HAVE SOLE AUTHORITY OVER THE**
8 **GAIN AND LOSS RESERVE ACCOUNT.**

9 **(II) THE GAIN AND LOSS RESERVE ACCOUNT MAY BE USED**
10 **TO ALLOCATE INTEREST AT THE STATED INTEREST RATE FOR PROGRAM YEARS**
11 **IN WHICH THE BOARD DETERMINES THAT THE STATED INTEREST RATE CANNOT**
12 **BE MET FROM INVESTMENT EARNINGS.**

13 **(B) THE BOARD SHALL ESTABLISH A GOAL FOR THE BALANCE OF THE**
14 **GAIN AND LOSS RESERVE ACCOUNT AND SHALL REVIEW PERIODICALLY THE**
15 **SUFFICIENCY OF THE RESERVE ACCOUNT BASED ON THE RECOMMENDATIONS**
16 **OF THE BOARD'S ACTUARY.**

17 **(C) (1) THE BOARD MAY ALLOCATE EXCESS EARNINGS OF THE**
18 **PROGRAM WITH RESPECT TO ASSETS ATTRIBUTABLE TO THE PROGRAM TO THE**
19 **GAIN AND LOSS RESERVE ACCOUNT.**

20 **(2) IN ADDITION, THE BOARD MAY ALLOCATE ANY LIABILITY**
21 **GAINS AND LOSSES TO THE GAIN AND LOSS RESERVE ACCOUNT.**

22 **(3) BASED ON AN ACTUARIAL VALUATION FOLLOWING EACH**
23 **PROGRAM YEAR, THE BOARD SHALL DETERMINE ANNUALLY THE AMOUNT, IF**
24 **ANY, THAT IS TO BE ALLOCATED TO THE GAIN AND LOSS RESERVE ACCOUNT**
25 **FOR THAT PROGRAM YEAR.**

26 **(4) IN DETERMINING WHETHER TO ALLOCATE EXCESS EARNINGS**
27 **TO THE GAIN AND LOSS RESERVE ACCOUNT, THE BOARD SHALL CONSIDER ALL**
28 **OF THE FOLLOWING:**

29 **(I) WHETHER OR NOT THE PROGRAM HAS EXCESS**
30 **EARNINGS;**

1 **(II) THE SUFFICIENCY OF THE GAIN AND LOSS RESERVE**
2 **ACCOUNT IN LIGHT OF THE GOAL ESTABLISHED UNDER SUBSECTION (B) OF**
3 **THIS SECTION;**

4 **(III) THE AMOUNT REQUIRED FOR THE PROGRAM'S**
5 **ADMINISTRATIVE COSTS; AND**

6 **(IV) THE AMOUNT REQUIRED FOR MAKING ALLOCATIONS TO**
7 **INDIVIDUALS' ACCOUNTS AT THE STATED INTEREST RATE.**

8 **(D) IN DETERMINING WHETHER TO ALLOCATE LIABILITY GAINS AND**
9 **LOSSES TO THE GAIN AND LOSS RESERVE ACCOUNT, THE BOARD SHALL**
10 **CONSIDER THE MATTERS DESCRIBED IN SUBSECTION (C)(4) OF THIS SECTION.**

11 **SUBTITLE 4. RETIREMENT INVESTMENTS CLEARINGHOUSE AND VENDORS.**

12 **12-401.**

13 **(A) BEFORE OPENING THE PROGRAM FOR ENROLLMENT, IF THERE IS**
14 **SUFFICIENT INTEREST BY VENDORS TO PARTICIPATE AND PROVIDE THE**
15 **NECESSARY FUNDING, THE BOARD SHALL ESTABLISH:**

16 **(1) A RETIREMENT INVESTMENTS CLEARINGHOUSE ON THE**
17 **INTERNET WEB SITE OF THE BOARD; AND**

18 **(2) A VENDOR REGISTRATION PROCESS THROUGH WHICH**
19 **INFORMATION ABOUT EMPLOYER-SPONSORED RETIREMENT PLANS AND**
20 **PAYROLL DEDUCTION IRAS OFFERED BY PRIVATE SECTOR PROVIDERS IS MADE**
21 **AVAILABLE FOR CONSIDERATION BY ELIGIBLE EMPLOYERS.**

22 **(B) VENDORS THAT WOULD LIKE TO PARTICIPATE IN THE RETIREMENT**
23 **INVESTMENTS CLEARINGHOUSE AND BE LISTED ON THE INTERNET WEB SITE**
24 **OF THE BOARD AS A REGISTERED VENDOR SHALL PROVIDE:**

25 **(1) A STATEMENT OF EXPERIENCE IN MARYLAND AND IN OTHER**
26 **STATES IN PROVIDING EMPLOYER-SPONSORED RETIREMENT PLANS AND**
27 **PAYROLL DEDUCTION IRAS;**

28 **(2) A DESCRIPTION BY THE VENDOR OF THE TYPES OF**
29 **RETIREMENT INVESTMENT PRODUCTS OFFERED;**

30 **(3) A DISCLOSURE, SUPPORTED BY DOCUMENTATION AS**
31 **REQUIRED FOR PROSPECTUS DISCLOSURE BY THE NATIONAL ASSOCIATION OF**

1 SECURITIES DEALERS AND THE SECURITIES AND EXCHANGE COMMISSION, OF
2 ALL EXPENSES PAID DIRECTLY OR INDIRECTLY BY RETIREMENT PLAN
3 PARTICIPANTS, INCLUDING PENALTIES FOR EARLY WITHDRAWALS, DECLINING
4 OR FIXED WITHDRAWAL CHARGES, SURRENDER OR DEPOSIT CHARGES,
5 MANAGEMENT FEES, AND ANNUAL FEES;

6 (4) A DESCRIPTION OF THE TYPES OF PRODUCTS, PRODUCT
7 FEATURES, SERVICES OFFERED TO PARTICIPANTS, AND INFORMATION ABOUT
8 HOW TO ACCESS PRODUCT PROSPECTUSES OR OTHER RELEVANT PRODUCT
9 INFORMATION;

10 (5) A DISCUSSION OF THE ABILITY, EXPERIENCE, AND
11 COMMITMENT OF THE VENDOR TO PROVIDE RETIREMENT COUNSELING AND
12 EDUCATION SERVICES, INCLUDING ACCESS TO GROUP MEETINGS AND
13 INDIVIDUAL COUNSELING BY VARIOUS MEANS, INCLUDING TELEPHONE AND
14 TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD), INTERNET, AND
15 FACE-TO-FACE CONSULTATIONS BY REGISTERED REPRESENTATIVES;

16 (6) A STATEMENT OF THE FINANCIAL STRENGTH OF THE VENDOR
17 BY IDENTIFYING RATINGS ASSIGNED BY NATIONALLY RECOGNIZED RATING
18 SERVICES THAT EVALUATE THE FINANCIAL STRENGTH OF SIMILAR COMPANIES;

19 (7) THE LOCATION OF OFFICES AND COUNSELORS, INDIVIDUAL
20 REGISTERED REPRESENTATIVES, BROKERS, FINANCIAL PLANNERS, AGENTS, OR
21 OTHER METHODS OF DISTRIBUTION, OF THE VENDOR THAT WOULD SERVE
22 EMPLOYERS AND THEIR EMPLOYEES IN THE STATE;

23 (8) A DESCRIPTION OF THE ABILITY OF THE VENDOR TO COMPLY
24 WITH ALL APPLICABLE PROVISIONS OF FEDERAL AND STATE LAW GOVERNING
25 RETIREMENT PLANS, INCLUDING MINIMUM DISTRIBUTION REQUIREMENTS AND
26 CONTRIBUTION LIMITS;

27 (9) TO THE EXTENT APPLICABLE, THE DEMONSTRATED ABILITY
28 OF THE VENDOR TO OFFER AN APPROPRIATE ARRAY OF ACCUMULATION
29 FUNDING OPTIONS, INCLUDING:

30 (I) INVESTMENT OPTIONS THAT OFFER GUARANTEED
31 RETURNS ON CONTRIBUTIONS AND THE CONVERSION OF RETIREMENT SAVINGS
32 ACCOUNT BALANCES TO SECURE RETIREMENT INCOME; AND

33 (II) A DIVERSIFIED MIX OF VALUE, GROWTH, GROWTH AND
34 INCOME, HYBRID, AND INDEX FUNDS OR ACCOUNTS ACROSS LARGE, MEDIUM,

1 AND SMALL CAPITALIZATION ASSET CLASSES, BOTH DOMESTIC AND
2 INTERNATIONAL;

3 (10) A DISCUSSION OF THE RANGE OF ADMINISTRATIVE AND
4 CUSTOMER SERVICES PROVIDED, INCLUDING:

5 (I) ASSET ALLOCATION;

6 (II) ACCOUNTING AND ADMINISTRATION OF BENEFITS FOR
7 INDIVIDUAL PARTICIPANTS;

8 (III) RECORDKEEPING FOR INDIVIDUAL PARTICIPANTS;

9 (IV) ASSET PURCHASE, CONTROL, AND SAFEKEEPING;

10 (V) EXECUTION OF A PARTICIPANT'S INSTRUCTIONS AS TO
11 ASSET AND CONTRIBUTION ALLOCATION;

12 (VI) CALCULATION OF DAILY NET ASSET VALUES;

13 (VII) DIRECT ACCESS FOR PARTICIPANTS TO THEIR ACCOUNT
14 INFORMATION;

15 (VIII) PERIODIC REPORTING THAT IS NOT LESS THAN
16 QUARTERLY TO ACTIVE PARTICIPANTS ON ACCOUNT BALANCES AND
17 TRANSACTIONS; AND

18 (IX) COMPLIANCE WITH THE STANDARD OF CARE
19 CONSISTENT WITH FEDERAL LAW AND APPLICABLE TO THE PROVISION OF
20 INVESTMENT SERVICES; AND

21 (11) CERTIFICATION BY THE VENDOR THAT THE INFORMATION
22 PROVIDED TO THE BOARD ACCURATELY REFLECTS THE PROVISIONS OF THE
23 RETIREMENT INVESTMENT PRODUCTS IT REGISTERS.

24 (C) (1) VENDORS SHALL SUPPLY INFORMATION AND DATA IN THE
25 FORMAT PRESCRIBED BY THE BOARD.

26 (2) VENDORS SHALL BE REQUIRED TO PROVIDE INFORMATION
27 REGARDING THE IMPACT OF PRODUCT FEES ON A HYPOTHETICAL INVESTMENT,
28 AS DESCRIBED IN § 12-404 OF THIS SUBTITLE.

1 **(D) A VENDOR MAY NOT CHARGE A FEE ASSOCIATED WITH A**
2 **REGISTERED PRODUCT THAT IS NOT DISCLOSED.**

3 **12-402.**

4 **(A) REGISTRATION SHALL BE OFFERED TO VENDORS ONCE ANNUALLY,**
5 **AND RENEWAL OF REGISTRATION SHALL BE REQUIRED AT LEAST ONCE EVERY 5**
6 **YEARS THEREAFTER FOR VENDORS THAT WISH TO CONTINUE TO PARTICIPATE**
7 **IN THE RETIREMENT INVESTMENTS CLEARINGHOUSE.**

8 **(B) THE BOARD SHALL PROVIDE PUBLIC NOTICE PRIOR TO THE INITIAL**
9 **REGISTRATION, ANNUAL REGISTRATION, AND REGISTRATION RENEWAL**
10 **PERIODS.**

11 **12-403.**

12 **(A) (1) THE BOARD MAY REMOVE A VENDOR FROM THE REGISTRY IF**
13 **THE VENDOR:**

14 **(I) SUBMITS MATERIALLY INACCURATE INFORMATION TO**
15 **THE BOARD;**

16 **(II) DOES NOT REMIT ASSESSED FEES WITHIN 60 DAYS; OR**

17 **(III) FAILS TO SUBMIT NOTICE OF MATERIAL CHANGES TO**
18 **THE VENDOR'S REGISTERED INVESTMENT PRODUCTS.**

19 **(2) VENDORS FOUND TO HAVE SUBMITTED MATERIALLY**
20 **INACCURATE INFORMATION TO THE BOARD SHALL BE ALLOWED 60 DAYS TO**
21 **CORRECT THE INFORMATION.**

22 **(B) THE BOARD SHALL REMOVE A VENDOR FROM THE REGISTRY IF**
23 **INVESTMENTS OFFERED BY THE VENDOR ARE PRODUCTS OF A REGULATED**
24 **INVESTMENT COMPANY OR INSURANCE COMPANY THAT IS NOT LICENSED OR**
25 **HAS HAD THE LICENSE REVOKED BY THE FINANCIAL INDUSTRY REGULATORY**
26 **AUTHORITY OR THE INSURANCE ADMINISTRATION FOR ENGAGING IN CONDUCT**
27 **PROHIBITED BY THOSE ENTITIES.**

28 **(C) THE BOARD SHALL ESTABLISH AN APPEALS PROCESS FOR VENDORS**
29 **THAT ARE DENIED REGISTRATION OR REMOVED FROM THE REGISTRY.**

30 **12-404.**

1 **(A) THE BOARD SHALL MAINTAIN THE RETIREMENT INVESTMENTS**
2 **CLEARINGHOUSE CONTAINING THE INFORMATION REQUIRED IN § 12-401 OF**
3 **THIS SUBTITLE ABOUT THE RETIREMENT INVESTMENT PRODUCTS OFFERED BY**
4 **EACH REGISTERED VENDOR AND OBJECTIVE COMPARISONS OF VENDORS AND**
5 **TYPES OF PRODUCTS.**

6 **(B) THE RETIREMENT INVESTMENTS CLEARINGHOUSE SHALL INCLUDE**
7 **INFORMATION ON INVESTMENT PERFORMANCE BASED ON THE INVESTMENT'S**
8 **AVERAGE ANNUAL TOTAL RETURN AS MEASURED BY A NATIONALLY**
9 **RECOGNIZED RATING SERVICE SELECTED BY THE BOARD FOR STANDARD**
10 **PERIODS OF TIME OF NOT LESS THAN 1 YEAR.**

11 **(C) (1) THE BOARD'S INTERNET WEB SITE SHALL INCLUDE A TABLE**
12 **SHOWING, FOR EACH REGISTERED FUND, THE TOTAL FEE COST IN DOLLARS**
13 **INCURRED BY A SHAREHOLDER WHO INITIALLY INVESTED \$5,000 AND EARNED**
14 **A 5% RATE OF RETURN FOR 1-, 5-, 10-, 15-, AND 20-YEAR TIME PERIODS.**

15 **(2) THE TABLE SHALL BE ACCOMPANIED BY A DISCLAIMER THAT**
16 **THE RATE OF RETURN IS FOR PURPOSES OF ILLUSTRATING THE RESPECTIVE**
17 **IMPACTS OF DIFFERENT FEE AMOUNTS ON EACH INVESTMENT, AND IS NOT TO**
18 **PREDICT FUTURE INVESTMENT RETURNS.**

19 **12-405.**

20 **THE BOARD SHALL INCLUDE A NOTICE OF THE EXISTENCE OF, AND THE**
21 **INTERNET WEB SITE ADDRESS FOR, THE RETIREMENT INVESTMENTS**
22 **CLEARINGHOUSE IN A NOTICE DISSEMINATED TO ELIGIBLE EMPLOYERS**
23 **THROUGH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.**

24 **12-406.**

25 **(A) (1) THE ACTUAL COST OF ESTABLISHING THE VENDOR**
26 **REGISTRATION SYSTEM AND THE RETIREMENT INVESTMENTS CLEARINGHOUSE**
27 **SHALL BE BORNE EQUALLY BY REGISTERED VENDORS, BASED ON THE TOTAL**
28 **NUMBER OF REGISTERED VENDORS.**

29 **(2) EACH REGISTERED VENDOR SHALL PAY A ONE-TIME**
30 **ESTABLISHMENT FEE EQUAL TO A PRO RATA SHARE OF THE ESTABLISHMENT**
31 **COSTS CHARGED TO VENDORS THAT REGISTER WITH THE BOARD BEFORE THE**
32 **CLOSE OF THE INITIAL REGISTRATION PERIOD, AS DETERMINED BY THE BOARD.**

33 **(3) THE ONE-TIME ESTABLISHMENT FEE CHARGED TO VENDORS**
34 **THAT REGISTER WITH THE BOARD AFTER THE COMPLETION OF THE INITIAL**

1 REGISTRATION PERIOD SHALL BE DISTRIBUTED EQUALLY AMONG REGISTERED
2 VENDORS THAT HAVE PAID THE ESTABLISHMENT FEE AND CREDITED TOWARD
3 SUBSEQUENT MAINTENANCE AND ADMINISTRATIVE FEES CHARGED TO EACH
4 VENDOR.

5 (B) (1) THE ACTUAL COST OF MAINTAINING THE VENDOR
6 REGISTRATION SYSTEM AND THE RETIREMENT INVESTMENTS CLEARINGHOUSE
7 AND THE COSTS ASSOCIATED WITH PUBLICIZING THE AVAILABILITY OF THE
8 CLEARINGHOUSE TO ELIGIBLE EMPLOYERS SHALL BE BORNE EQUALLY BY
9 REGISTERED VENDORS, BASED ON THE TOTAL NUMBER OF REGISTERED
10 VENDORS.

11 (2) EACH REGISTERED VENDOR SHALL PAY A RENEWAL FEE
12 EQUAL TO A PRO RATA SHARE OF THE MAINTENANCE COSTS, AS DETERMINED
13 BY THE BOARD.

14 (C) EACH REGISTERED VENDOR SHALL PAY AN ADMINISTRATIVE FEE
15 FOR EACH RETIREMENT INVESTMENT PRODUCT OFFERED TO EMPLOYERS THAT
16 REPRESENTS THE ACTUAL COSTS ASSOCIATED WITH PROCESSING THE
17 INFORMATION RELATED TO THE INVESTMENT OPTION AND PRESENTING IT ON
18 THE RETIREMENT INVESTMENTS CLEARINGHOUSE, AS DETERMINED BY THE
19 BOARD.

20 (D) THE BOARD MAY NOT DIVERT TRUST FUNDS TO ESTABLISH OR
21 MAINTAIN THE VENDOR REGISTRATION SYSTEM OR THE RETIREMENT
22 INVESTMENTS CLEARINGHOUSE.

23 12-407.

24 (A) (1) THE BOARD AND THE PROGRAM, AND ITS OFFICERS AND
25 EMPLOYEES, ARE NOT RESPONSIBLE FOR, AND MAY NOT BE HELD LIABLE FOR,
26 THE ADEQUACY OF THE INFORMATION PROVIDED BY THE PARTICIPATING
27 VENDORS AND CONTAINED IN THE RETIREMENT INVESTMENTS
28 CLEARINGHOUSE.

29 (2) THE RETIREMENT INVESTMENTS CLEARINGHOUSE
30 MAINTAINED BY THE BOARD SERVES ONLY TO PROVIDE INFORMATION
31 SUPPLIED BY THE PARTICIPATING VENDORS FOR THE CONSIDERATION OF THE
32 SELECTION OF RETIREMENT INVESTMENT PRODUCTS.

33 (B) (1) PARTICIPATING VENDORS MAY NOT USE THE PROGRAM'S
34 LOGO OR CLAIM OR IMPLY ENDORSEMENT OR RECOMMENDATION BY THE
35 BOARD OR THE PROGRAM WITH RESPECT TO PRODUCTS AND SERVICES

1 IDENTIFIED BY THE VENDORS IN THE RETIREMENT INVESTMENTS
2 CLEARINGHOUSE.

3 (2) AT THE DISCRETION OF THE BOARD, A VIOLATION OF THIS
4 SECTION MAY LEAD TO REMOVAL FROM THE REGISTRY.

5 (C) THE BOARD AND THE PROGRAM MAY NOT BE HELD LIABLE FOR
6 THE ACTIONS OF REGISTERED VENDORS.

7 **SUBTITLE 5. MARYLAND SECURE CHOICE RETIREMENT SAVINGS PROGRAM.**

8 **12-501.**

9 (A) THERE IS A MARYLAND SECURE CHOICE RETIREMENT SAVINGS
10 PROGRAM.

11 (B) THE MARYLAND SECURE CHOICE RETIREMENT SAVINGS
12 PROGRAM SHALL INCLUDE, AS DETERMINED BY THE BOARD, ONE OR MORE
13 PAYROLL DEPOSIT IRA ARRANGEMENTS.

14 (C) (1) ON OR BEFORE JULY 1 OF THE INITIAL PROGRAM YEAR, AND
15 ON OR BEFORE THE BEGINNING OF EACH PROGRAM YEAR THEREAFTER, THE
16 BOARD SHALL ADOPT A PROGRAM AMENDMENT IN COORDINATION WITH THE
17 INVESTMENT MANAGEMENT ENTITY WITH RESPECT TO THE PROGRAM TO
18 DECLARE THE STATED RATE AT WHICH INTEREST SHALL BE ALLOCATED TO
19 PROGRAM ACCOUNTS FOR THE FOLLOWING PROGRAM YEAR.

20 (2) INTEREST SHALL BE ALLOCATED TO PROGRAM ACCOUNTS
21 AND SHALL BE COMPUTED AT THE STATED INTEREST RATE ON THE BALANCE OF
22 AN INDIVIDUAL'S ACCOUNT AND SHALL BE COMPOUNDED DAILY.

23 (D) AN INDIVIDUAL'S RETIREMENT SAVINGS BENEFIT UNDER THE
24 PROGRAM SHALL BE AN AMOUNT EQUAL TO THE BALANCE IN THE INDIVIDUAL'S
25 PROGRAM ACCOUNT ON THE DATE THE RETIREMENT SAVINGS BENEFIT
26 BECOMES PAYABLE.

27 **12-502.**

28 (A) AFTER THE BOARD OPENS THE PROGRAM FOR ENROLLMENT, ANY
29 EMPLOYER MAY CHOOSE TO HAVE A PAYROLL DEPOSIT RETIREMENT SAVINGS
30 ARRANGEMENT TO ALLOW EMPLOYEE PARTICIPATION IN THE PROGRAM.

1 **(B) BEGINNING 3 MONTHS AFTER THE BOARD OPENS THE PROGRAM**
2 **FOR ENROLLMENT, ELIGIBLE EMPLOYERS WITH MORE THAN 100 ELIGIBLE**
3 **EMPLOYEES AND THAT DO NOT OFFER AN EMPLOYER-SPONSORED RETIREMENT**
4 **PLAN OR AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA SHALL HAVE A**
5 **PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EMPLOYEE**
6 **PARTICIPATION IN THE PROGRAM.**

7 **(C) BEGINNING 6 MONTHS AFTER THE BOARD OPENS THE PROGRAM**
8 **FOR ENROLLMENT, ELIGIBLE EMPLOYERS WITH MORE THAN 50 ELIGIBLE**
9 **EMPLOYEES AND THAT DO NOT OFFER AN EMPLOYER-SPONSORED RETIREMENT**
10 **PLAN OR AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA SHALL HAVE A**
11 **PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EMPLOYEE**
12 **PARTICIPATION IN THE PROGRAM.**

13 **(D) BEGINNING 9 MONTHS AFTER THE BOARD OPENS THE PROGRAM**
14 **FOR ENROLLMENT, ALL OTHER ELIGIBLE EMPLOYERS THAT DO NOT OFFER AN**
15 **EMPLOYER-SPONSORED RETIREMENT PLAN OR AUTOMATIC ENROLLMENT**
16 **PAYROLL DEDUCTION IRA SHALL HAVE A PAYROLL DEPOSIT RETIREMENT**
17 **SAVINGS ARRANGEMENT TO ALLOW EMPLOYEE PARTICIPATION IN THE**
18 **PROGRAM.**

19 **(E) (1) EACH ELIGIBLE EMPLOYEE SHALL BE ENROLLED IN THE**
20 **PROGRAM UNLESS THE EMPLOYEE ELECTS NOT TO PARTICIPATE IN THE**
21 **PROGRAM.**

22 **(2) AN ELIGIBLE EMPLOYEE MAY ELECT TO OPT OUT OF THE**
23 **PROGRAM BY MAKING A NOTATION ON THE OPT-OUT FORM.**

24 **(3) FOLLOWING INITIAL IMPLEMENTATION OF THE PROGRAM IN**
25 **ACCORDANCE WITH THIS SECTION, AT LEAST ONCE EVERY 2 YEARS,**
26 **PARTICIPATING EMPLOYERS SHALL DESIGNATE AN OPEN ENROLLMENT PERIOD**
27 **DURING WHICH ELIGIBLE EMPLOYEES THAT PREVIOUSLY OPTED OUT OF THE**
28 **PROGRAM SHALL BE ENROLLED IN THE PROGRAM UNLESS THE EMPLOYEE**
29 **AGAIN ELECTS TO OPT OUT AS PROVIDED IN THIS SUBSECTION.**

30 **(4) AN EMPLOYEE WHO ELECTS TO OPT OUT OF THE PROGRAM**
31 **WHO SUBSEQUENTLY WANTS TO PARTICIPATE THROUGH THE EMPLOYER'S**
32 **PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT MAY ENROLL ONLY**
33 **DURING THE EMPLOYER'S DESIGNATED OPEN ENROLLMENT PERIOD OR IF**
34 **ALLOWED BY THE EMPLOYER AT AN EARLIER TIME.**

35 **(F) EMPLOYERS SHALL RETAIN THE OPTION AT ALL TIMES TO SET UP**
36 **ANY TYPE OF EMPLOYER-SPONSORED RETIREMENT PLAN, SUCH AS A DEFINED**

1 BENEFIT PLAN OR A 401(K), SIMPLIFIED EMPLOYEE PENSION (SEP) PLAN, OR
2 SAVINGS INCENTIVE MATCH PLAN FOR EMPLOYEES (SIMPLE) PLAN, OR TO
3 OFFER AN AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA, INSTEAD OF
4 HAVING A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT TO ALLOW
5 EMPLOYEE PARTICIPATION IN THE PROGRAM.

6 (G) AN ELIGIBLE EMPLOYEE ALSO MAY TERMINATE PARTICIPATION IN
7 THE PROGRAM AT ANY TIME IN A MANNER PRESCRIBED BY THE BOARD AND
8 THEREAFTER BY MAKING A NOTATION ON THE OPT-OUT FORM.

9 (H) UNLESS OTHERWISE SPECIFIED BY THE EMPLOYEE, A
10 PARTICIPATING EMPLOYEE SHALL CONTRIBUTE 3% OF THE EMPLOYEE'S
11 ANNUAL SALARY OR WAGES TO THE PROGRAM.

12 (I) BY REGULATION, THE BOARD MAY ADJUST THE CONTRIBUTION
13 AMOUNT SET IN SUBSECTION (H) OF THIS SECTION TO NO LESS THAN 2% AND NO
14 MORE THAN 4% AND MAY VARY THAT AMOUNT WITHIN THAT 2% TO 4% RANGE
15 FOR PARTICIPATING EMPLOYEES ACCORDING TO THE LENGTH OF TIME THE
16 EMPLOYEE HAS CONTRIBUTED TO THE PROGRAM.

17 SUBTITLE 6. LIMITATION OF LIABILITY.

18 12-601.

19 (A) EMPLOYERS MAY NOT HAVE ANY LIABILITY FOR AN EMPLOYEE'S
20 DECISION TO PARTICIPATE IN OR OPT OUT OF THE PROGRAM, OR FOR THE
21 INVESTMENT DECISIONS OF EMPLOYEES WHOSE ASSETS ARE DEPOSITED IN THE
22 PROGRAM.

23 (B) (1) EMPLOYERS MAY NOT BE A FIDUCIARY, OR BE CONSIDERED
24 TO BE A FIDUCIARY, OF THE PROGRAM.

25 (2) AN EMPLOYER MAY NOT BEAR RESPONSIBILITY FOR THE
26 ADMINISTRATION, INVESTMENT, OR INVESTMENT PERFORMANCE OF THE
27 PROGRAM.

28 (3) AN EMPLOYER MAY NOT BE LIABLE WITH REGARD TO
29 INVESTMENT RETURNS, PROGRAM DESIGN, OR BENEFITS PAID TO PROGRAM
30 PARTICIPANTS.

31 (C) AN EMPLOYER'S VOLUNTARY CONTRIBUTION UNDER § 12-205(11)
32 OF THIS TITLE MAY NOT CONTRADICT THE PROVISIONS OF THIS SECTION OR

1 CHANGE THE EMPLOYER'S RELATIONSHIP TO THE PROGRAM OR AN
2 EMPLOYER'S OBLIGATIONS TO EMPLOYEES.

3 12-602.

4 (A) THE STATE MAY NOT HAVE ANY LIABILITY FOR THE PAYMENT OF
5 THE RETIREMENT SAVINGS BENEFIT EARNED BY PROGRAM PARTICIPANTS IN
6 ACCORDANCE WITH THIS TITLE.

7 (B) ANY FINANCIAL LIABILITY FOR THE PAYMENT OF BENEFITS IN
8 EXCESS OF FUNDS AVAILABLE UNDER THE PROGRAM SHALL BE BORNE BY THE
9 ENTITIES WITH WHOM THE BOARD CONTRACTS TO PROVIDE AN INSURANCE,
10 ANNUITY, OR ANY OTHER FUNDING MECHANISM TO PROTECT THE VALUE OF
11 INDIVIDUALS' ACCOUNTS IN ACCORDANCE WITH § 12-206 OF THIS TITLE.

12 (C) THE STATE, AND ANY OF THE FUNDS OF THE STATE, SHALL HAVE
13 NO OBLIGATION FOR PAYMENT OF THE BENEFITS ARISING FROM THIS TITLE.

14 SUBTITLE 7. PENALTIES.

15 12-701.

16 (A) THE STATE COMPTROLLER SHALL HAVE THE AUTHORITY
17 NECESSARY TO ADMINISTER THE ENFORCEMENT OF EMPLOYER COMPLIANCE
18 WITH THIS TITLE.

19 (B) AN ELIGIBLE EMPLOYER SHALL USE THE OPT-OUT FORM IN THE
20 EMPLOYEE INFORMATION PACKET DISSEMINATED BY THE DEPARTMENT OF
21 BUSINESS AND ECONOMIC DEVELOPMENT TO CREATE AN OPTION FOR AN
22 ELIGIBLE EMPLOYEE TO NOTE THE EMPLOYEE'S DECISION TO OPT OUT OF
23 PARTICIPATION IN THE PROGRAM.

24 (C) EACH ELIGIBLE EMPLOYER THAT, WITHOUT GOOD CAUSE, FAILS TO
25 ALLOW ELIGIBLE EMPLOYEES TO PARTICIPATE IN THE PROGRAM IN
26 ACCORDANCE WITH §§ 12-207 AND 12-502 OF THIS TITLE SHALL:

27 (1) IF FOUND TO BE IN NONCOMPLIANCE FOR 90 DAYS TO 180
28 DAYS, PAY \$250 PER ELIGIBLE EMPLOYEE; AND

29 (2) IF FOUND TO BE IN NONCOMPLIANCE FOR MORE THAN 180
30 DAYS, PAY AN ADDITIONAL PENALTY OF \$500 PER ELIGIBLE EMPLOYEE.

1 **(D) PENALTIES COLLECTED IN ACCORDANCE WITH THIS SECTION**
2 **SHALL BE DEPOSITED IN THE TRUST.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
4 members of the Maryland Secure Choice Retirement Savings Investment Board
5 established by Section 1 of this Act who are subject to appointment end as follows:

- 6 (a) one member in 2014;
- 7 (b) one member in 2015;
- 8 (c) one member in 2016; and
- 9 (d) two members in 2017.

10 SECTION 3. AND BE IT FURTHER ENACTED, That:

11 (a) The Maryland Secure Choice Retirement Savings Investment Board shall
12 conduct a market analysis to determine whether the necessary conditions for
13 implementation of this Act can be met, including:

- 14 (1) likely participation rates;
- 15 (2) participants' comfort with various investment vehicles and degree
16 of risk;
- 17 (3) contribution levels; and
- 18 (4) the rate of account closures and rollovers.

19 (b) The Board shall conduct this analysis only if sufficient funds to initiate
20 and complete the required market analysis are made available through a nonprofit or
21 private entity or from federal funding.

22 (c) The Board shall report its findings on the market analysis to the
23 Governor and, in accordance with § 2-1246 of the State Government Article, the
24 General Assembly.

25 SECTION 4. AND BE IT FURTHER ENACTED, That, before any plan, trust,
26 administrative arrangement, or investment offering may be implemented under this
27 Act, the Maryland Secure Choice Retirement Savings Investment Board shall
28 determine that, based on the market analysis, the provisions of this Act will be
29 self-sustaining, and funds are made available through a nonprofit or other private
30 entity, federal funding, or an annual Budget Bill appropriation in amounts sufficient
31 to allow the Board to implement this Act until the Maryland Secure Choice
32 Retirement Savings Trust has sufficient funds to be self-sustaining.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, before any plan, trust,
2 administrative arrangement, or investment offering may be implemented under this
3 Act, the arrangements for individual retirement accounts or individual retirement
4 annuities under § 408(a) or (b) of the Internal Revenue Code shall qualify for the
5 favorable federal income tax treatment ordinarily accorded to individual retirement
6 accounts or annuities under the Internal Revenue Code, and the Maryland Secure
7 Choice Retirement Savings Program shall be determined not to be an employee benefit
8 plan under the federal Employee Retirement Income Security Act.

9 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2013.